

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NICE SYSTEMS, INC., a Delaware Corporation, and	)	
NICE SYSTEMS, LTD., an Israeli Corporation,	)	
	)	
Plaintiffs,	)	
v.	)	Civil Action No. 06-311-JJF
	)	
WITNESS SYSTEMS, INC, a Delaware Corporation,	)	
	)	
Defendant.	)	

**PLAINTIFFS' MOTION TO RESTORE TO THE SCHEDULING ORDER  
DATES CERTAIN FOR THE EXCHANGE OF EXPERT REPORTS**

Plaintiffs NICE Systems, Inc., and NICE Systems Ltd. (collectively "NICE") hereby move the Court to enter an order, in the form attached hereto, to restore to the scheduling order in this case dates certain for the exchange of expert reports, so as not to disrupt the January 14, 2008 trial of this matter. In support thereof, NICE states as follows:

1. Trial of this matter from the outset has been scheduled for five days beginning January 14, 2008. Scheduling Order ¶ 9 (D.I. 46).
2. Because some limited disputed discovery, addressed at a hearing on discovery motions on July 13, 2007, continued beyond the discovery cutoff date established in the original scheduling order, and because NICE intended to narrow the claims asserted in this litigation, the original scheduling order was amended on August 14, 2007. By the amendment, the dates certain for the exchange of expert reports included in the original scheduling order were replaced by time periods tied essentially to the narrowing of NICE's claims. Stipulated Order Amending Scheduling Order (D.I. 221).

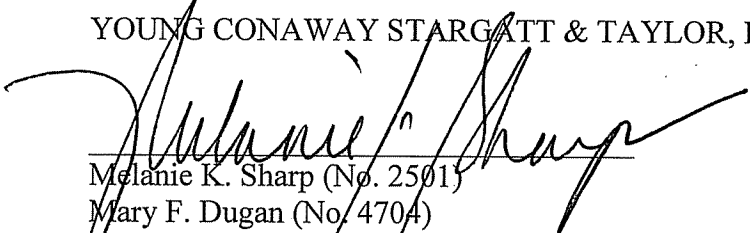
3. NICE voluntarily narrowed the claims at issue in this litigation by withdrawing 29 claims by letter dated September 28, 2007 (D.I. 230). A form of order implementing withdrawal of those claims has been filed.

4. Because NICE has voluntarily narrowed the claims, the exchange of expert reports is now appropriate and must proceed promptly in order to avoid the undesirable disruption of the January 14, 2008 trial date. Defendant Witness Systems, Inc. disagrees and declines to cooperate in establishing a schedule for the prompt exchange of expert reports.

5. For the foregoing reasons, NICE respectfully requests that the Court enter an order, in the form attached hereto, requiring the service of opening expert reports on or before November 9, 2007 and the service of rebuttal expert reports on or before November 26, 2007.

KAYE SCHOLER LLP  
Scott G. Lindvall  
(admitted *pro hac vice*)  
Joseph M. Drayton  
(admitted *pro hac vice*)  
425 Park Avenue  
New York, NY 10022  
(212)836-8000

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Melanie K. Sharp (No. 2501)  
Mary F. Dugan (No. 4704)  
The Brandywine Building  
1000 West Street, 17<sup>th</sup> Floor  
Wilmington, DE 19801

P.O. Box 391  
Wilmington, DE 19899  
(302)571-6681  
[msharp@ycst.com](mailto:msharp@ycst.com)  
*Attorneys for Plaintiffs Nice Systems, Inc.  
and Nice Systems, Ltd.*

Dated: October 12, 2007

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NICE SYSTEMS, INC., a Delaware Corporation, and	)	
NICE SYSTEMS, LTD., an Israeli Corporation,	)	
	)	
Plaintiffs,	)	
v.	)	Civil Action No. 06-311-JJF
	)	
WITNESS SYSTEMS, INC., a Delaware Corporation,	)	
	)	
Defendant.	)	

**ORDER AMENDING SCHEDULING ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2007, Plaintiffs' Motion to Restore Dates Certain for the Exchange of Expert Reports and Defendant's Opposition thereto having been presented to and considered by this Court,

Plaintiffs' Motion is hereby GRANTED, and Section 2 (a) of the Amended Scheduling Order, which amended Section 3(e) of the Scheduling Order, is hereby amended to **restore** dates certain for the exchange of expert reports as follows:

Reports from retained experts required by Fed.R.Civ.P. 26(a)(2) are due from the party having the burden of proof on or before **November 9, 2007**. Reply reports are due on or before **November 26, 2007**.

---

J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

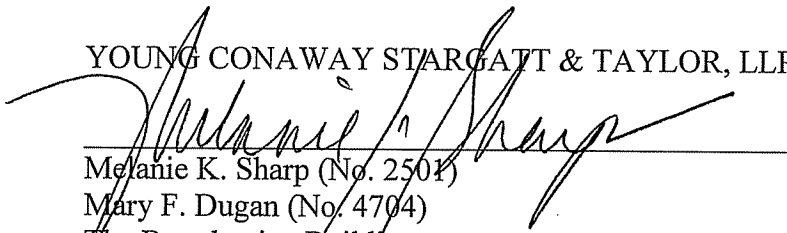
NICE SYSTEMS, INC., a Delaware Corporation, and	)	
NICE SYSTEMS, LTD., an Israeli Corporation,	)	
	)	
Plaintiffs,	)	
v.	)	Civil Action No. 06-311-JJF
	)	
WITNESS SYSTEMS, INC., a Delaware Corporation,	)	
	)	
Defendant.	)	

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1**

Pursuant to District of Delaware Local Rule 7.1.1, Plaintiffs NICE Systems, Inc., and NICE Systems, Ltd. (collectively "NICE") hereby certify that a reasonable effort has been made to reach agreement with Defendant Witness Systems, Inc. on the matter set forth in Plaintiffs' Motion to Restore Dates Certain for the Exchange of Expert Reports. The parties have not reached agreement.

Dated: October 12, 2007

YOUNG CONAWAY STARGATT & TAYLOR, LLP

  
\_\_\_\_\_  
Melanie K. Sharp (No. 2504)  
Mary F. Dugan (No. 4704)  
The Brandywine Building  
1000 West Street, 17<sup>th</sup> Floor  
Wilmington, DE 19801

P.O. Box 391  
Wilmington, DE 19899  
(302)571-6681  
msharp@ycst.com

KAYE SCHOLER LLP  
Scott G. Lindvall  
Joseph M. Drayton  
425 Park Avenue  
New York, NY 10022  
(212)836-8000  
*Attorneys for Plaintiffs NICE Systems, Inc. and  
NICE Systems, Ltd.*

**CERTIFICATE OF SERVICE**

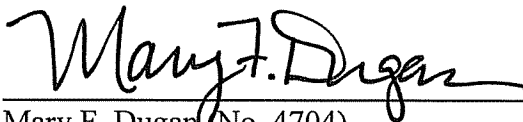
I, Mary F. Dugan, Esquire, hereby certify that on October 12, 2007, I caused to be electronically filed a true and correct copy of the foregoing document, Motion to Restore Dates Certain for the Exchange of Expert Reports with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

William J. Marsden, Jr., Esquire  
Kyle Wagner Compton, Esquire  
Fish & Richardson, P.C.  
919 North Market Street, Suite 1100  
P.O. Box 1114  
Wilmington, DE 19899-1114

I further certify that on October 12, 2007, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

**BY E-MAIL**

Noah C. Graubart ([graubart@fr.com](mailto:graubart@fr.com))  
Nagendra Setty ([setty@fr.com](mailto:setty@fr.com))  
Daniel A. Kent ([kent@fr.com](mailto:kent@fr.com))  
Christopher O. Green ([green@fr.com](mailto:green@fr.com))  
Fish & Richardson, P.C.  
1180 Peachtree Street, NE  
21<sup>st</sup> Floor  
Atlanta, GA 30309



Mary F. Dugan (No. 4704)  
YOUNG CONAWAY STARGATT &  
TAYLOR, LLP  
The Brandywine Building, 17th Floor  
1000 West Street  
Wilmington, DE 19801

P.O. Box 391  
Wilmington, Delaware 19899-0391  
(302) 571-5028  
[mdugan@ycst.com](mailto:mdugan@ycst.com)